



UNITED STATES PATENT AND TRADEMARK OFFICE

NB

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,859	09/12/2003	Jeffery T. Hebbard	013002-9050-00	8766
23409	7590	12/23/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP				TORRES, ALICIA M
100 E WISCONSIN AVENUE				ART UNIT
MILWAUKEE, WI 53202				PAPER NUMBER
				3671

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/661,859	HEBBARD ET AL.
	Examiner	Art Unit
	Alicia M Torres	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 October 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4 and 6-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 15-19 is/are allowed.

6) Claim(s) 1-3,8,9,12,20,24 and 25 is/are rejected.

7) Claim(s) 4,6,7,10,11,13,14 and 21-23 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Claim Objections

1. Claims 6-9 are objected to because of the following informalities: because they depend from cancelled claim 5. For purposes of this examination, claims 6-9 have been taken to depend from claim 1. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: “he” in line 6 should be changed to –the—;

There is lack of antecedent basis for “said handle” in lines 5/6. It is unclear if the mower handle or the bag handle is being referred to. Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 8, 9, 20 and 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhlinger et al., hereafter Uhlinger in view of Sullivan.

In regards to claims 1-3, 8, 9 and 24, Uhlinger discloses a lawnmower comprising:

A deck (10) having a discharge opening (26);

An engine (11) supported by the deck (10) and having an output shaft (unnumbered, see

Figure 3) rotating in response to operation of the engine (11);

Art Unit: 3671

A cutting blade (12) interconnected with the output shaft under the deck (10) and rotatable in response to rotation of the output shaft to cut vegetation;

A mower handle (14) attached to the deck (10) and extending upwardly therefrom;

A bag assembly (15) releasably attached to the rest of the lawnmower, the bag assembly (15) including a frame (15''), a bag (15') attached to the frame (15'') and having a bag opening (at 16) aligned with the discharge opening (26), as per claim 1; and

Further comprising a door (28) pivotally attached to the deck (10) and a biasing member (33) biasing the door (28) to a position covering the discharge opening (26), wherein the door (28) must be opened to permit the bag assembly (15) to be attached to the rest of the lawnmower, wherein the door (28) engages a top surface of the bag assembly (15) when the bag assembly (15) is attached to the rest of the lawnmower, and wherein the handle (16) is between the door (28) and the bag (15') when the bag assembly (15'') is attached to the rest of the lawnmower, as per claim 9.

However, Uhlinger fails to disclose at least one wheel rotatably mounted to the frame, the at least one wheel being in a stowed condition during lawnmower operation; and

A bag handle coupled to the bag assembly, the bag handle movable between an extended position and a retracted position only when the bag assembly is detached from the rest of the lawnmower,

Wherein during operation of the lawnmower, clippings from under the deck are discharged into said bag through the discharge opening and bag opening;

Wherein the bag assembly is detachable from the rest of the lawnmower to haul away clippings in the bag; and

Wherein, to enable rolling the bag assembly away from the rest of the lawnmower, the at least one wheel at east partially supports the bag assembly only when the bag assembly is detached form the rest of the lawnmower, as per claim 1; and

Wherein the bag assembly includes an axle interconnected with the frame and wherein the at least one wheel is mounted for rotation on the axle, as per claim 2; and

Wherein the at least one wheel is adjacent the mower handle when the bag assembly is attached to the rest of the lawnmower, as per claim 3; and

Wherein the bag handle must be in the retracted condition to enable the bag assembly to be attached to the rest of the lawnmower, and wherein the bag handle is movable to the extended condition when the bag assembly is detached from the rest of the lawnmower to facilitate rolling the bag assembly away from the rest of the lawnmower, as per claim 8; and

Wherein another portion of the lawnmower inhibits movement of the handle from the retracted position to the extended position when the bag assembly is attached to he rest of the lawnmower, as per claim 24.

Sullivan discloses a lawnmower (42) including at least one wheel (22) rotatably mounted to the frame (11, 20, 36), the at least one wheel (22) being in a stowed condition during lawnmower operation (see Figure 2); and

A bag handle (25, 26) coupled to the bag assembly (8), the bag handle (25, 26) movable between an extended position (see Figure 1) and a retracted position (see Figure 2) only when the bag assembly (8) is detached from the rest of the lawnmower (42),

Wherein during operation of the lawnmower (42), clippings from under the lawnmower (42) are discharged into said bag (8) through the discharge opening and bag opening;

Wherein the bag assembly (8) is detachable from the rest of the lawnmower (42) to haul away clippings in the bag (8); and

Wherein, to enable rolling the bag assembly (8) away from the rest of the lawnmower (42), the at least one wheel (22) at east partially supports the bag assembly (8) only when the bag assembly (8) is detached form the rest of the lawnmower (42), as per claim 1; and

Wherein the bag assembly (8) includes an axle (21) interconnected with the frame (11, 20, 36) and wherein the at least one wheel (22) is mounted for rotation on the axle (21), as per claim 2; and

Wherein the at least one wheel (22) is adjacent the mower handle (27) when the bag assembly (8) is attached to the rest of the lawnmower (42), as per claim 3; and

Wherein the bag handle (25, 26) must be in the retracted condition to enable the bag assembly (8) to be attached to the rest of the lawnmower (42), and wherein the bag handle (25, 26) is movable to the extended condition when the bag assembly (8) is detached from the rest of the lawnmower (42) to facilitate rolling the bag assembly (8) away from the rest of the lawnmower (42), as per claim 8; and

Wherein another portion (27) of the lawnmower (42) inhibits movement of the handle (25, 26) from the retracted position to the extended position when the bag assembly (8) is attached to the rest of the lawnmower (42), as per claim 24.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel of Sullivan on the lawnmower of Uhlinger in order to easily roll the bag assembly.

Art Unit: 3671

4. In regards to claims 20 and 25, Uhlinger discloses a lawnmower comprising:

A deck (10) defining a discharge opening (26);

An engine (11) supported by the deck (10);

A cutting blade (12) rotating below the deck (10) in response to operation of the engine (11); and

A bag assembly (15) releasably mounted to the deck (10) and including a bag (15') communicating with the discharge opening (26), as per claim 20.

However, Uhlinger fails to disclose at least one wheel, and a handle movable between a retracted condition and an extended condition; and

Wherein movement of the handle is inhibited when the bag assembly is attached to the deck such that the handle is movable into the extended condition only when the bag assembly is detached from the deck to facilitate rolling the bag assembly away from the rest of the lawnmower, as per claim 20; and

Wherein when the bag assembly is mounted to the deck, the handle must be in the retracted position, as per claim 24.

However, Sullivan discloses a similar assembly including at least one wheel (22), and a handle (25, 26) movable between a retracted condition (see Figure2) and an extended condition (see Figure 1); and

Wherein movement of the handle (25, 26) is inhibited when the bag assembly (8) is attached to the lawnmower (42) such that the handle (25, 26) is movable into the extended condition only when the bag assembly (8) is detached from the lawnmower (42, see Figure 1) to

Art Unit: 3671

facilitate rolling the bag assembly (8) away from the rest of the lawnmower (42), as per claim 20; and

Wherein when the bag assembly (8) is mounted to the lawnmower (42), the handle (25, 26) must be in the retracted position (see Figure 2), as per claim 24.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel of Sullivan on the lawnmower of Uhlinger in order to easily roll the bag assembly.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Uhlinger.

In regards to claim 12, Sullivan discloses a bag assembly (8) for use on a lawnmower (42) having a deck (unnumbered) with a discharge opening (unnumbered), the bag assembly (8) comprising:

A frame (11, 20, 36);

A bag (8) supported by the frame (11, 20, 36) and having a bag opening (unnumbered) aligning with the discharge opening when the bag assembly (8) is mounted on the lawnmower (42);

A bag handle (25, 26) coupled to the frame (11, 20, 36), the bag handle (25, 26) movable between an extended position (see Figure 1) and a retracted position (see Figure 2), the bag handle (25, 26) positioned such that the lawnmower (42) inhibits movement of the handle (25, 26) from the retracted position to the extended position when the frame (11, 20, 36) is attached to the lawnmower (42); and

At least one wheel rotatably (22) mounted to the frame (11, 20, 36), the at least one wheel (22) being in a stowed condition (see Figure 2), in which it does not support the weight of the bag assembly (8), when the bag assembly (8) is mounted on the lawnmower (42), and the at least one wheel (22) at least partially supporting the bag assembly (8) when the bag assembly (8) is detached from the lawnmower (42) to facilitate rolling the bag assembly (8) away from the lawnmower (42).

However, Sullivan fails to disclose a means for releasably mounting the frame to the lawnmower.

Uhlinger discloses a similar bag (15) assembly including means (16, 28, 33) for releasably mounting the frame (15'') to the lawnmower (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the means of Uhlinger on the lawnmower of Sullivan in order to provide a safety mechanism.

Response to Arguments

6. Applicant's arguments with respect to claims 1-3, 8, 9, 12, 20, 24 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

7. Claims 4, 6, 7, 10 and 11, 13, 14, 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-19 are allowed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.

Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT December 14, 2004